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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 1022/2016 & CM APPL. 36081/2016

DR RAKHI MEHRA

Through

..... Petitioner

Mr. Nirmal Kumar Ambastha with
Mr. Abhaid Parikh, Advocates

versus

AJIT M SHARAN & ORS

Through

..... Respondents

Mr. Krishan Kumar, Advocate for
R-2.Mr. Vaibhav Kalra, Advocate for R-2
to 4.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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25.04.2017

Present contempt petition has been filed alleging wilful disobedience of the order dated 9th September, 2015 passed in W.P.(C) 7826/2015 whereby respondents were directed to complete the enquiry against the petitioner arising out of the charge-sheet dated 3rd February, 2009 within four months.

Subsequently, on 23rd February, 2016, the enquiry officer was directed to complete the enquiry within two months from the date the written submissions were submitted by the petitioner.

On 8th September, 2016, this Court had dismissed petitioner's application for stay of transfer and issued the notice limited to the petitioner's submission that the enquiry had not been completed within the stipulated time. The relevant portion of the order dated 8th September, 2016 is reproduced hereinbelow:-

“Learned counsel for the petitioner states that during the pendency of the enquiry, the petitioner should not have been transferred. He states that the transfer order is in violation of the order dated 16th November, 2015 passed by this Court in an earlier contempt petition filed by the petitioner being Cont.Cas(C) No.827/2015. He also contends that the transfer order is in violation of the order dated 9th September, 2015 passed by the Division Bench of this Court as the Division Bench had been informed that the order of transfer had been kept in abeyance.

Upon a perusal of the paper book, this Court finds that the order dated 16th November, 2015 was a consensual order wherein the respondent no.1 had on its own violation allowed the petitioner to join the Safdarjung Hospital in Delhi. Even the Division Bench in its order dated 9th September, 2015 had only made a note of the fact that the order of transfer had been kept in abeyance. In any event, since the petitioner's job is a transferable job, this Court is of the view that in contempt jurisdiction an order of stay of transfer cannot be passed. Moreover, the orders dated 16th November, 2015 and 9th September, 2015 cannot be read to mean that the petitioner cannot be transferred forever.

Accordingly the application of stay being C.M.No.33046 is dismissed.

However, as the petitioner's case is that the enquiry has not been completed within the stipulated time, issue notice to respondent nos.2 to 4 in the present contempt petition by registered AD as well as dasti. The respondents are directed to file the status report before the next date of hearing clearly

mentioning as to why the enquiry initiated against the petitioner has not been completed till date.”

Admittedly, the petitioner's SLP challenging the order dated 8th September, 2016 has been dismissed by the Supreme Court.

Today, learned counsel for the petitioner states that without awaiting for petitioner's written submissions, the respondent has concluded the enquiry.

This Court is of the view that the argument advanced today is contrary to the plea advanced on 8th September, 2016 by the counsel for the petitioner that the enquiry had not been completed within the stipulated time.

This Court also finds that when the order dated 23rd February, 2016 was passed by the Division Bench, petitioner was represented by her counsel. Consequently, the petitioner was very well aware that the written submissions had to be filed within a reasonable time so as to facilitate completion of enquiry expeditiously.

Since in the present case the enquiry was concluded on 26th April, 2016, this Court is of the view that petitioner had sufficient time to file her written submissions. Consequently, present contempt petition and pending application being bereft of merits are dismissed.

MANMOHAN, J

APRIL 25, 2017

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